

REMARKS/ARGUMENTS

1. Applicants acknowledge with appreciation the courtesy of a telephonic interview on April 20, 2007 between Examiner Angela Martin and Applicants' Attorney Jeffrey Klayman to discuss the Office action of December 28, 2007 and specifically the Examiner's treatment of claim 32 as akin to a "product-by-process" claim by virtue of the tubular anode having pores "formed by" reduction of an oxide of an electrochemically active substance without inclusion of a distinct pore forming substance. Mr. Klayman proposed to amend claim 32 to focus on the composition of the anode (i.e., specifically lacking a distinct pore-forming substance, as opposed to Song, which includes carbon powder as a pore-forming agent). A proposed amendment was submitted by facsimile to Examiner Martin on April 23, 2007. A return phone call was received from Examiner Martin indicating that the proposed amendment would be acceptable but also asking for evidence that the claimed fuel cell has different properties than Song's fuel cell.

2. Applicants respectfully submit that the Song reference provides sufficient evidence that the claimed fuel cell has different properties than Song's fuel cell.

Song uses carbon powder as a distinct pore forming agent. In fact, Song uses at least 20 vol % carbon powder (otherwise the fuel electrode will be too low in porosity to operate normally as an electrode) but no more than 50 vol % carbon powder (otherwise the fuel electrode becomes poor in strength) as a distinct pore forming agent. See Song, Col. 3, lines 35-45. As Song points out, however, incomplete combustion of the carbon powder can result in reduced porosity (and efficiency) of the fuel electrode, and therefore Song preferably uses 30 vol % carbon powder in an extrusion process in order to obtain sufficient

porosity and strength. See Song, Col. 6, lines 43-57. As discussed in the subject patent application beginning at page 13, line 21, addition of a pore-forming substance such as carbon powder also creates a risk of changing the size of the tube when the pores form and of creating cracks in the electrolyte layer.

Independent claim 32 has been amended to clarify that the tubular anode comprises a reduced form of an electrochemically active substance and excludes a distinct pore-forming substance, such that the anode includes pores formed by reduction of an oxide of an electrochemically active substance without inclusion of a distinct pore forming substance. Thus, the presently claimed invention includes a porous tubular support anode that lacks a distinct pore forming agent such as carbon powder and instead has pores formed by reducing an oxide of an electrochemically active substances, such as nickel oxide. Because the anode of the claimed invention is formed from a material that lacks carbon powder or other distinct pore-forming agent, the resulting anode will lack any residual carbon powder and therefore the issues discussed above in conjunction with use of a distinct pore-forming agent will be avoided.

Claim 33 has been amended to better comport with claim 32.

3. All pending claims are believed to be in a form suitable for allowance. Therefore, the application is believed to be in a condition for allowance. The Applicants respectfully request early allowance of the application.
4. Applicants hereby request a follow-on telephone conference with the Examiner and request that the Examiner contact the undersigned, Jeffrey T. Klayman, to coordinate further prosecution.

5. Applicants petition for a two month extension of time. In the event that a further extension is needed, this conditional petition of extension is hereby submitted, and Applicants request that deposit account number 19-4972 be charged for any fees that may be required for the timely consideration of this application.

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Respectfully submitted,

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